

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES R. NEKVASIL, JR.,)	
Reg. No. 04317-027,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	2:20cv274-ECM
)	
FEDERAL BUREAU OF PRISONS,)	
)	
Defendant.)	

ORDER

Plaintiff James R. Nekvasil, Jr., a federal inmate at Montgomery Federal Prison Camp (“Montgomery FPC”), filed this civil rights action under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), challenging the constitutionality of actions taken by Federal Bureau of Prisons personnel in implementing the directives set forth by the Attorney General of the United States regarding how to evaluate inmates for possible release under the Coronavirus Aid, Relief, and Economic Security Act of 2020 (“CARES Act”). Mr. Nekvasil names the Federal Bureau of Prisons (“BOP”) as Defendant; however, as a federal agency, the BOP is not a proper defendant in this action. *Scaff–Martinez v. Federal Bureau of Prisons*, 160 F. App’x 955 (11th Cir. 2005). The proper defendants in a *Bivens* action are the federal

officers who allegedly violated the plaintiff's constitutional rights, not the federal agency that employs the officers. *Id.*

In light of the foregoing, it is

ORDERED that **on or before July 27, 2020**, Mr. Nekvasil shall file an amended complaint that (1) names as defendants those individuals he contends are personally responsible for the alleged violations of his constitutional rights, and (2) specifically describes how each defendant listed in the amended complaint acted in a manner that deprived him of his constitutional rights.

Mr. Nekvasil is advised that in filing his amended complaint he should present a short and plain statement of the claim showing why he is entitled to relief which “give[s] the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal quotations omitted); Rule 8(a)(2), Federal Rules of Civil Procedure. “[A] plaintiff’s obligation to provide the ‘grounds of his entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. . . .” *Id.* Mr. Nekvasil is further advised that this case will proceed only against the defendants named and claims presented in the amended complaint. The amended complaint will therefore supersede the original complaint.

To aid Mr. Nekvasil in filing a response to this order, the Clerk is DIRECTED to provide him with a copy of the form used by prisoners to file complaints and Mr.

Nekvasil shall utilize this form in filing his amended complaint. Mr. Nekvasil is cautioned that if he fails to comply with the directives of this order, the Magistrate Judge will recommend that this case be dismissed for such failure and without further notice.

DONE this 13th day of July, 2020.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
CHIEF UNITED STATES MAGISTRATE JUDGE